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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/955,268	09/18/2001	Michael H. Backman	00AN171	9005

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JONES, JUDSON

[REDACTED] ART UNIT [REDACTED] PAPER NUMBER

2834

DATE MAILED: 01/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/955,268	BACKMAN ET AL.	
	Examiner Judson H Jones	Art Unit 2834	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-26 is/are rejected.
- 7) Claim(s) 27 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>5</u> .	6) <input type="checkbox"/> Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-9, 11-17 and 19-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thornton et al. 6,101,952 in view of Mihirogi 5,193,767. Thornton et al. discloses a path for a linear motor comprising a first path portion 48C as shown in figure 9A having a plurality of armature windings, at least two branch path portions 48A, 48B as shown in figure 9A and a routing system as shown in figure 9B operative effective to move a stage between the first path and one of the branch paths but does not disclose the routing system between the first path portion and the branch portions. However Mihirogi teaches in figure 1 a routing system 3 between a first path 1 and branch paths 2b and 2a for the purpose of driving a movable member to alternate destinations. Since Thornton et al. and Mihirogi are both from the same field of

endeavor, it would have been obvious at the time the invention was made for one of ordinary skill in the art to have utilized a routing system located between the first path portion and branch portions in order to reduce the number of expensive drive coils on the path and thus reduce the cost of the transport device.

In regard to claims 3-5, 7, 12-14, 16, 22 and 23 see Mihiogi figure 1.

In regard to claims 6, 8, 15, 19, 24 and 25, see Thornton et al. column 10 lines 10-47 which describes an automatic control system for selectively controlling the movement of the movable element. See also Mihiogi column 4 lines 8-31 and column 1 lines 53-56 where a crank means connected to an electric motor is suggested for controlling the movement of the movable element. No teaching in Mihiogi has been found for a "linear motor system operative to selectively move" as recited in claim 6 or a "motor control system being operative to select the selected path portion and control the bridge" as recited in claim 8. However since Thornton et al. teaches automating the control system and since Thornton et al. and Mihiogi are both from the same field of endeavor, it would have been obvious at the time the invention was made for one of ordinary skill in the art to have utilized an automatic control system for controlling the bridge portion between a first path and branch paths in order to simplify operation of the device and thus make it more useful and more efficient.

In regard to claims 9, 17 and 26, see Thornton et al. figure 9B and column 10 lines 17-47 which describes a method of selecting the branch a movable member will take based on controlling the armature windings of the path.

In regard to claim 20, according to *St. Regis Paper Co. v. Bemis Co., Inc.*, 193 USPQ 8, 11 (7th Cir. 1977), duplication of parts for a multiplied effect is not a patentable advance. The

court stated, "While the addition of multiple plies to the concept of the Poppe bag undoubtedly made it stronger and even may have been necessary to make this type of bag commercially feasible, it is not the type of innovation for which a patent monopoly is to be granted."

Claims 10 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thornton et al. as modified by Mihirogi as applied to claims 1 and 11 above, and further in view of Miyazaki et al. 4,849,664 and Nogami 6,285,988. Thornton et al. as modified by Mihirogi discloses the linear motor system but does not disclose the system being used in a building having more than two floors such as occupied by some banks or being used for any other multi-level system. However Nogami teaches that a linear motor can be used to transport articles between different locations in a bank as shown in figure 2 and as described in column 6 lines 30-41. Since Nogami and Thornton et al. as modified by Mihirogi are both from the same field of endeavor, it would have been obvious at the time the invention was made for one of ordinary skill in the art to have utilized a linear motor having a first path and branch paths with means for switching between the branches as taught by Thornton et al. and Mihirogi for an article conveyance means in a bank because Thornton et al. describes his system as usable for road or track vehicle guidance in column 1 lines 62-67 and mentions structures other than vehicles in column 11 lines 12-13, and also because Nogami provides no details on the linear motor used in his device or details on how the linear motor switches between alternative branches. Thornton et al. as modified by Mihirogi and Nogami discloses a linear motor transport system having a first path and branch path portions for use in a bank but does not disclose a branch path being at a different level relative to the first path portion. However Miyazaki teaches that a linear motor can be used to transport articles between different floors in a bank as shown in figure 9 and as

described in the abstract. Since Miyazaki and Thornton et al. as modified by Mihirogi and Nogami are both from the same field of endeavor, it would have been obvious at the time the invention was made for one of ordinary skill in the art to have utilized the switching means of Thornton et al. as modified by Mihirogi and Nogami for switching between two branch paths at different levels because having a transport means switchable between alterative locations at different levels would make the linear motor system usable in more applications and thus make manufacturing such a transport system more profitable.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Morishita et al. 4,732,087 is cited for disclosing another bridge for making connections between a first path and second or third branch paths.

Allowable Subject Matter

Claim 27 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:
The prior art of record does not disclose or teach the combination of controlling armature windings to effect movement of a stage along a selected route combined with moving a bridge portion to position the bridge path between the trunk path and a branch path.

Any inquiry concerning this communication should be directed to Judson H Jones whose telephone number is 703-308-0115. The examiner can normally be reached on 8-4:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nestor Ramirez can be reached on 703-308-1371. The fax phone numbers for the

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organization where this application or proceeding is assigned are 703-305-3431 for regular communications and 703-305-3432 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

JHJ *JHJ*
January 20, 2003

Judson Jone
Art Unit 2834